



Janice K. Brewer  
Governor

# ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 West Washington Street • Phoenix, Arizona 85007  
(602) 771-2300 • [www.azdeq.gov](http://www.azdeq.gov)



Henry R. Darwin  
Director

October 31, 2012

Case ID: 134274

Drake Cement LLC  
Attention: Mr. Lawrence Turner  
5745 N. Scottsdale Rd.  
Ste B-135  
Scottsdale, AZ 85250-5902

## **Re: Notice of Violation issued to Drake Cement LLC**

Dear Mr. Turner:

The attached Notice of Violation ("NOV") is an informal compliance assurance tool used by the Arizona Department of Environmental Quality ("ADEQ") to put a responsible party (such as a facility owner or operator) on notice that the Department believes a violation of an administrative order issued by ADEQ has occurred. It describes the facts known to ADEQ at the time of issuance and cites the provision(s) of the order that ADEQ believes the party has violated. The NOV in no way changes obligations or time frames specified within the administrative order.

An NOV does not constitute an appealable agency action. Rather, an NOV provides the responsible party an opportunity to do any of the following before ADEQ takes formal enforcement action: (1) meet with ADEQ and discuss the facts surrounding the violation, (2) demonstrate to ADEQ that no violation has occurred, or (3) document that the violation has been corrected. Although the NOV states that ADEQ will agree to extend the NOV time frames only in a compliance schedule negotiated in the context of an administrative consent order or civil consent judgment, for violation(s) of an administrative order, ADEQ will agree to extend the time frames in the context of a civil consent judgment only.

ADEQ reserves the right to take a formal enforcement action, such as filing a civil lawsuit or revoking/suspending an associated permit, regardless of whether the Department has issued an NOV. Neither ADEQ's issuance of an NOV nor its failure to do so precludes the Department from pursuing these remedies. However, the timeliness of a complete response to this notice will be considered by ADEQ in determining if and how to pursue such remedies.

Sincerely,

  
\_\_\_\_\_  
Thomas C. Luch, Manager  
Air Quality Technical Services Unit

Southern Regional Office  
400 West Congress Street • Suite 433 • Tucson, AZ  
85701

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Henry R. Darwin  
Director

CERTIFIED MAIL  
Return Receipt Requested

Case ID #: 134274

October 31, 2012

Drake Cement LLC  
Attention: Lawrence Turner  
5745 N Scottsdale Rd  
Ste B-135  
Scottsdale, AZ 85250-5902

Subject: Drake Cement- Drake Road Site, Place ID 15847  
5001 E. Drake Road

## NOTICE OF VIOLATION

The Arizona Department of Environmental Quality (ADEQ) has reason to believe that Drake Cement LLC as the owner/operator of Drake Cement- Drake Road Site has violated a requirement of the Arizona Revised Statutes (A.R.S.), a rule within the Arizona Administrative Code (A.A.C.), or an applicable permit/license, administrative order or civil judgment. ADEQ discovered the violations alleged below during an inspection completed on September 25, 2012.

### I. LEGAL AUTHORITY and NATURE OF ALLEGED VIOLATION(S)

#### **1. Permit 53336 - Attachment B, Section I, Part B(5)(a)**

**The Permittee shall not cause or allow to be emitted into the atmosphere from the Main Stack any gases which contain NOX in excess of 95 lbs per hr based on an hourly rolling 24-hour average.**

On September 25, 2012, ADEQ received an Excess Emission Report indicating eight exceedances from the Main Stack (MS-5.38) of the 95 lbs/hr NOx limit, based on an hourly rolling 24-hour average. The highest exceedance of NOx during the incident was 98.7 lbs/hr, based on an hourly rolling 24-hour average. The excess emissions began September 19, 2012 at 5:00 a.m. and ended September 19, 2012 at 1:00 p.m.

In July, 2012, Drake Cement discovered a problem with the ABB DCS, a control system used by plant production staff to operate the plant. Drake Cement programmed the ABB DCS incorrectly, such that, it calculated the 24-hour average from midnight to midnight instead of using a rolling average. This mistake was corrected to calculate the NOx 24-hour rolling average.

On September 20, 2012, however, Drake Cement discovered that the ABB DCS was still programmed insufficiently, as the ABB DCS failed to exclude daily calibration checks from the data used to calculate the average hourly NOx values. These incorrect average hourly NOx values produced incorrect values of NOx based on an hourly rolling 24-hour average. Without the correct values of NOx, the ABB DCS failed to deploy ammonia injections in a way to prevent the NOx from exceeding the permitted limit on September 19, 2012.

Southern Regional Office  
400 West Congress Street Suite 433 Tucson, AZ 85701  
(520) 628-6733

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## II. DOCUMENTING COMPLIANCE

1. Within 30 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or provide ADEQ with a detailed root cause analysis for the NOx limitation exceedance and documentation of the corrective actions taken.
2. Within 60 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or contact Pamela Nicola at (602) 771-4728 to schedule a relative accuracy test audit to be completed no later than January 31, 2013, pursuant to ARS 49-422(A)(3).

## III. SUBMITTING COMPLIANCE DOCUMENTATION

Please send all compliance documentation and any other written correspondence regarding this Notice to ADEQ at the following address:

Arizona Department of Environmental Quality, Attention: Amelia Peterson, Air Quality Enforcement Unit,  
1110 W Washington St, Phoenix, AZ 85007 MC: N/A

## IV. STATEMENT OF CONSEQUENCES

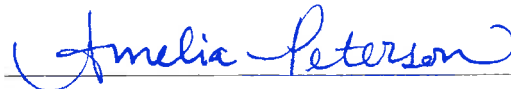
1. The time frames within this Notice for achieving and documenting compliance are firm limits. Failure to achieve or document compliance within the time frames established in this Notice will result in an administrative compliance order or civil action requiring compliance within a reasonable time frame, substantial civil penalties, and/or the suspension or revocation of an applicable permit/license. ADEQ will agree to extend the time frames only in a compliance schedule negotiated in the context of an administrative consent order or civil consent judgment.
2. Achieving compliance does not preclude ADEQ from seeking civil penalties, and/or suspending or revoking an applicable permit/license for the violation(s) alleged in this Notice as allowed by law.

V. OFFER TO MEET

ADEQ is willing to meet regarding this Notice. To obtain additional information about this Notice or to schedule a meeting to discuss this Notice, please contact Amelia Peterson at (602) 771-4256.



Thomas C. Luch, Manager  
Air Quality Technical Services Unit



Amelia Peterson  
Air Quality Enforcement Unit